

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Criminal Action No. 06-00247-01,05-CR-W-HFS

v.

BRIAN JOHNSON and
STEPHANIE A. PAYTON

Defendants

MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE

PENDING CHARGE: On July 18, 2006, the Grand Jury returned a six count Indictment against defendants Brian Johnson, Kisha L. Barnes, Tyrone D. Scott, Ryan L. Orr and Stephanie A. Payton¹. Count One of the indictment charges that between February 3 and February 16, 2006, defendants Brian Johnson, Kisha L. Barnes, Tyrone D. Scott, Ryan L. Orr and Stephanie A. Payton conspired with each other to distribute five hundred (500) grams or more of cocaine, a Schedule II controlled substance. Counts Two through Five charge one or more of the defendants with the intent to distribute cocaine on particular days. Count Six charges defendant Brian Johnson with being a felon in possession of a firearm, that is, a Raven Arms .25 caliber semi-auto handgun with an erased serial number. Count Six is a forfeiture allegation against defendant Johnson.

The following matters were discussed and action taken during the pretrial conference:

TRIAL COUNSEL:

Government: Catherine Connelly
Case Agent: Officer James Wingo of the Missouri State Highway Patrol
Defense: Anita Burns for defendant Brian Johnson
Robin Fowler for defendant Stephanie Payton

OUTSTANDING MOTIONS: Defendant Johnson has filed four motions in limine.

TRIAL WITNESSES:

Government: 9-13 witnesses with stipulations; 14 without stipulations
Defendant Johnson: 3 witnesses, including the defendant

¹Warrants have been issued and are outstanding for defendants Tyrone Scott, Kisha Barnes and Ryan Orr.

Defendant Payton: 3 witnesses, including the defendant

TRIAL EXHIBITS

Government: 28 exhibits

Defendant Johnson: 0 exhibits

Defendant Payton: 6 exhibits

DEFENSES: Lack of specific intent and general denial

POSSIBLE DISPOSITION:

(x) Definitely for trial; () Possibly for trial; () Likely a plea will be worked out

TRIAL TIME: 2 ½ days

Government's case including jury selection: 2 days

Defense case: ½ day total for both defendants

STIPULATIONS: A stipulation will be proposed as to the chemist's report.

UNUSUAL QUESTIONS OF LAW: None

FILING DEADLINES:

Witness and Exhibit List

Government: Friday before the pretrial conference

Defense: Friday before the pretrial conference

Counsel are requested to list witnesses in alphabetical order on their witness list.

Exhibit Index, Voir Dire, Jury Instructions: Noon, Wednesday, October 25, 2006

Please Note: Jury instructions must comply with Local Rule 51.1

Motion in Limine: Four Motions In Limine have been filed by defendant Brian Johnson including:

1. Motion In Limine, doc. # 37, prohibiting the government from mentioning or introducing evidence that the Raven Arms .25 caliber semi-automatic handgun, defendant is charged with possessing in Count Six of the Indictment had an erased serial number.
2. Motion In Limine, doc. #38, prohibiting the government from mentioning or introducing evidence that a Glock .45 caliber handgun was found on February 17, 2006, near the scene of defendant's arrest on February 16, 2006.

3. Motion In Limine, doc. #39, prohibiting the government from mentioning or introducing evidence that at the time of his arrest, defendant had outstanding warrants from Saline County, Missouri and Raytown and Kansas City, Missouri.
4. Motion In Limine, doc. #40, prohibiting the government from mentioning or introducing evidence that a vehicle being operated by defendant on February 16, 2006, struck another vehicle and that the driver of the other vehicle was taken to a hospital and treated for minor injuries.

The government will respond to the motions in limine by Monday, October 23, 2006. Additionally, if any further motion is required based upon counsel's review of a transcript of a conversation recorded through a body wire, that motion will be filed by October 23, 2006.

TRIAL SETTING: Criminal jury trial docket commencing November 6, 2006.

IT IS SO ORDERED.

_____/s/_____
SARAH W. HAYS
United States Magistrate Judge